

REFERENCES IN TEXT

Title IV, referred to in text, means title IV of Pub. L. 89-329, as added by Pub. L. 99-498, which is classified generally to this subchapter and part C of subchapter I of chapter 34 of Title 42, The Public Health and Welfare.

§ 1095. Transfer of allotments

In order to offer an arrangement of types of aid, including institutional and State aid which best fits the needs of each individual student, an institution may (1) transfer a total of 25 percent of the institutions allotment under section 1087bb of this title to the institution's allotment under section 1070b-3 of this title or section 2752 of title 42 (or both); (2) transfer 25 percent of the institution's allotment under section 2752 of title 42 to the institution's allotment under section 1070b-3 or 1087bb of this title (or both); and (3) transfer 25 percent of the institution's allotment under section 1070b-3 of this title to the institution's allotment under section 2752 of title 42. Funds transferred to an institution's allotment under another section may be used as a part of and for the same purposes as funds allotted under that section. The Secretary shall have no control over such transfer, except as specifically authorized, except for the collection and dissemination of information.

(Pub. L. 89-329, title IV, § 488, as added Pub. L. 99-498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1490; amended Pub. L. 100-50, § 15(14), June 3, 1987, 101 Stat. 357; Pub. L. 102-325, title IV, § 492, July 23, 1992, 106 Stat. 630; Pub. L. 110-315, title IV, § 494A, Aug. 14, 2008, 122 Stat. 3319.)

PRIOR PROVISIONS

A prior section 1095, Pub. L. 89-329, title IV, § 488, as added Pub. L. 96-374, title IV, § 451(a), Oct. 3, 1980, 94 Stat. 1452, related to transfer of allotments, prior to the general revision of this part by Pub. L. 99-498.

AMENDMENTS

2008—Pub. L. 110-315 struck out “and” after semicolon in par. (1), substituted “section 1070b-3 or 1087bb of this title (or both); and” for “section 1070b-3 of this title.” in par. (2), and added par. (3).

1992—Pub. L. 102-325 inserted first two sentences and struck out former first sentence which read as follows: “Up to 10 percent of the allotment of an eligible institution for a fiscal year under section 1070b-3 of this title or 2752 of title 42, may be transferred to, and used for the purposes of, the institution's allotment under the other section within the discretion of such institution in order to offer an arrangement of types of aid, including institutional and State aid, which best fits the needs of each individual student.”

1987—Pub. L. 100-50 substituted “section 2752 of title 42” for “section 2756 of title 42”.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-325 to this section, relating to transfers of allotments, applicable with respect to funds provided for award years beginning on or after July 1, 1993, see section 498 of Pub. L. 102-325, set out as a note under section 1088 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99-498, see section 27 of Pub. L. 100-50, set out as a note under section 1001 of this title.

§ 1095a. Wage garnishment requirement**(a) Garnishment requirements**

Notwithstanding any provision of State law, a guaranty agency, or the Secretary in the case of loans made, insured or guaranteed under this subchapter and part C of subchapter I of chapter 34 of title 42 that are held by the Secretary, may garnish the disposable pay of an individual to collect the amount owed by the individual, if he or she is not currently making required repayment under a repayment agreement with the Secretary, or, in the case of a loan guaranteed under part B of this subchapter on which the guaranty agency received reimbursement from the Secretary under section 1078(c) of this title, with the guaranty agency holding the loan, as appropriate, provided that—

(1) the amount deducted for any pay period may not exceed 15 percent of disposable pay, except that a greater percentage may be deducted with the written consent of the individual involved;

(2) the individual shall be provided written notice, sent by mail to the individual's last known address, a minimum of 30 days prior to the initiation of proceedings, from the guaranty agency or the Secretary, as appropriate, informing such individual of the nature and amount of the loan obligation to be collected, the intention of the guaranty agency or the Secretary, as appropriate, to initiate proceedings to collect the debt through deductions from pay, and an explanation of the rights of the individual under this section;

(3) the individual shall be provided an opportunity to inspect and copy records relating to the debt;

(4) the individual shall be provided an opportunity to enter into a written agreement with the guaranty agency or the Secretary, under terms agreeable to the Secretary, or the head of the guaranty agency or his designee, as appropriate, to establish a schedule for the repayment of the debt;

(5) the individual shall be provided an opportunity for a hearing in accordance with subsection (b) of this section on the determination of the Secretary or the guaranty agency, as appropriate, concerning the existence or the amount of the debt, and, in the case of an individual whose repayment schedule is established other than by a written agreement pursuant to paragraph (4), concerning the terms of the repayment schedule;

(6) the employer shall pay to the Secretary or the guaranty agency as directed in the withholding order issued in this action, and shall be liable for, and the Secretary or the guaranty agency, as appropriate, may sue the employer in a State or Federal court of competent jurisdiction to recover, any amount that such employer fails to withhold from wages due an employee following receipt of such employer of notice of the withholding order, plus attorneys' fees, costs, and, in the court's discretion, punitive damages, but such employer shall not be required to vary the normal pay and disbursement cycles in order to comply with this paragraph;

(7) if an individual has been reemployed within 12 months after having been involun-